

# HUSCH BLACKWELL

Amy L. Wachs  
Partner

190 Carondelet Plaza, Suite 600  
St. Louis, MO 63105  
Direct: 314.480.1840  
Fax: 314.480.1505  
amy.wachs@huschblackwell.com

November 8, 2013

## Via E-Mail

Audrey Asher  
Senior Counsel  
U.S. Environmental Protection Agency  
Region VII  
11201 Renner Blvd.  
Lenexa, KS 66219

Re: Bridgeton Landfill Isolation Barrier

Dear Audrey:

You asked me what components of a bird hazard control plan will be necessary to ensure that birds hazardous to aviation at the Lambert-St. Louis International Airport<sup>®</sup> ("Airport") are not attracted by the excavation and other activities associated with the proposed isolation barrier to be built between the Bridgeton and Westlake Landfills in Bridgeton, MO. The City of St. Louis ("City"), the owner and operator of the Airport, has consulted with its wildlife biologists experienced in controlling wildlife hazards on airports and various Federal Aviation Administration ("FAA") guidelines to develop minimum criteria for a bird hazard control plan necessary to protect aviation safety during excavation of the isolation barrier. The City has also discussed this matter with the FAA. The review and approval by the City of the bird hazard control plan to be implemented by Bridgeton Landfill, which contains the elements below, must be included in the isolation barrier work.

The necessary components of a bird hazard control program include:

- 1) Mitigation measures during excavation of putrescible waste to minimize bird attractants. This may include daily cover, closed containers, rapid off-site waste disposal or other measures to minimize the exposure of putrescible waste and the on-site pooling of storm water runoff or other water. These mitigation measures must be reviewed and approved by a trained wildlife damage management biologist.
- 2) Daily monitoring for bird hazards by trained personnel. A trained wildlife damage management biologist, or personnel trained and overseen by a trained

# HUSCH BLACKWELL

Audrey Asher  
Page 2

wildlife damage management biologist, must be on-site on a daily basis to monitor, assess and document bird populations and identify any potential bird hazard during active excavation. It is essential to timely identify the creation or development of a bird hazard so that it may be eliminated quickly before an aircraft safety issue develops.

- 3) Routine reporting to the City on bird monitoring results. The City will need weekly reports of bird populations and immediate daily reports of any bird hazard identified.
- 4) Increased mitigation measures if bird populations increase or a potential bird hazard is identified or occurs. If bird populations increase or a potential bird hazard is identified or occurs, additional mitigation measures dictated by a trained wildlife damage management biologist must be immediately implemented and the identified bird hazard eliminate using active control measures appropriate to the species being dispersed.
- 5) A dusk to dawn repellant program. A robust and flexible bird repellant program must be implemented including escalating measures such as an intensive harassment program including the use of pyrotechnics, propane cannons, trapping and, where necessary, lethal control to ensure birds do not congregate at the project. The repellant program shall be under the control of a trained wildlife damage management biologist, shall include training for on-site personnel required to implement the program (including the recognition and dispersal of bird hazards), and shall be appropriate for the species identified by the monitoring program. Appropriate equipment for dispersing birds will be on-site at all time and staff will be properly trained in the equipment use and application.
- 6) A reimbursement agreement. The City will need to have in place as part of or as a companion to any bird hazard control plan an agreement to reimburse Airport expenses: a) for any wildlife hazard studies, assessments, plans and/or mitigation or repellant programs that are required or recommended by the FAA, the U.S. Department of Agriculture—Wildlife Services (“USDA-WS”), or other Federal, state, or local government authority with jurisdiction in response to a bird hazard at the Bridgeton Landfill, and/or b) incurred in response to a determination by the Airport’s wildlife monitoring contractor (presently the USDA-WS) that a bird hazard has developed or is developing at Bridgeton Landfill and after reasonable notice Bridgeton Landfill fails or refuses to take appropriate action to timely eliminate the bird hazard.

# HUSCH BLACKWELL

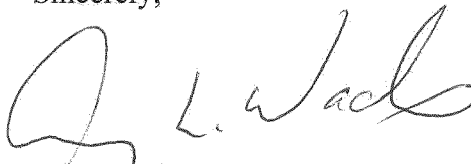
Audrey Asher  
Page 3

The trained wildlife damage management biologist should have training and experience consistent with FAA Advisory Circular 150/5200-36A, or alternative training and experience approved by the City. At a minimum, the wildlife biologist must have training on wildlife control including the recognition and dispersal of bird hazards, as well as wildlife monitoring and assessment.

The components for a bird hazard control plan listed above are proposed for the isolation barrier only, and reflect that the work to implement the isolation barrier will be of relatively short duration. In no way should the City's comments herein be construed as an approval of any excavation at the Bridgeton Landfill or the Westlake Landfill. Any project to be undertaken at either landfill will be evaluated by the City on a project specific basis.

The City would be happy to discuss the elements of the bird hazard control plan with USEPA, at your convenience. Please feel free to call me at (314) 480-1840 or e-mail at [amy.wachs@huschblackwell.com](mailto:amy.wachs@huschblackwell.com) if you need additional information.

Sincerely,



Amy L. Wachs  
Partner

ALW

cc: Mario Pandolfo  
Jerry Beckmann  
Dana Ryan  
Jessica Merrigan  
Joe Bindbeutel  
Aaron Schmidt  
Chris Nagel